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VIA ECF

The Honorable Peggy Kuo
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**RE: Nussenzweig v. Specialized
15 CV 1434 (DLI) (PK)**

Dear Magistrate Judge Kuo:

I represent the plaintiff in the above matter. We respond to defendant's motion to compel discovery by stating the said motion is frivolous and moot in light of the fact that we filed a motion to stay discovery which is *sub judice* before the Court.

Furthermore, subsequent to the plethora of emails which defendant appended to its motion to compel, we indicated to defendant's counsel that it is bad faith to move to compel discovery while there is a motion to stay. I wrote to Hubbard as follows: "We know that you know that we have made a motion to stay discovery so that requesting us to have a good faith discussion about moving forward with discovery is actually a request made in bad faith." The defendant failed to respond to that email.

In addition, as we state in our motion to stay, that there will be multiple motions to compel etc. In addition, if defendant would not multiply the proceedings with frivolous and vexatious motions, then we would not have had a problem, but so far in this case, in instead of proceeding with discovery, defendant moved to stay pending the outcome in *Spokeo*, to which plaintiff agreed, and, instead of just letting us file the amended complaint, defendant made us file a motion; instead of consenting to allow us to file a second amended complaint to address *Spokeo* as per the Second Circuit, we had to file a another motion, and defendant has not abided by its agreement to provide discovery to us months after *Spokeo* was decided. Defendant has multiplied every proceeding with multiple frivolous motions like this current within motion.

Thank you for the Court's consideration of the foregoing.

Yours faithfully,
/s/
Adam J. Fishbein

Cc: Jon A. Hubbard, Esq.